

Child Welfare Policy Manual

Questions & Answers

2.1A.2 CAPTA, Assurances and Requirements, Access to Child Abuse and Neglect Information, Expungement

1. Question: How will States be able to determine whether a pattern of abuse or neglect exists if unsubstantiated records must be expunged? While the statute allows these records to be kept in casework files, if the files are not maintained in a central location, previous unsubstantiated report(s) may go undetected if a subsequent report comes into another office, or even another worker.

Answer: The impetus behind the expungement requirement was the concern of Congress that families are negatively and sometimes unjustly affected by maintenance of public records of unsubstantiated allegations of abuse or neglect. However, it was not the intent of Congress to prevent CPS agencies from keeping information on unsubstantiated reports for use in future risk and safety assessments (Senate Report 104-117, dated July 10, 1995, p. 14). While CAPTA requires prompt expungement of records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated, it also allows CPS agencies to retain information on unsubstantiated reports in their casework files.

Since the issue for Congress is disclosure of information regarding cases that are unsubstantiated or unfounded, this requirement should not adversely affect a State's ability to determine possible cumulative harm. For instance, a State could choose to implement a system which would consider an unsubstantiated case "expunged" for any purpose other than investigation of a new report. This should be possible even in States where casework files are computerized.

- **Source/Date:** ACYF-NCCAN-PIQ-97-01 (3/4/97); updated 9/27/11
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(xii)

2. Question: How does the CAPTA expungement requirement affect States that have a three-tier system which includes a middle category that indicates a reasonable basis for concern?

Answer: This requirement relates only to unsubstantiated or unfounded cases and would not affect retention of records for a middle category which indicates that there is reason to suspect that child abuse or neglect has occurred.

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- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(xii)